

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: April 15, 2005

To: The Commission
(Meeting of April 21, 2005)

From: Delaney Hunter, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: SB 210 (Bowen) Telecommunications: telephone corporations: surcharges
As amended March 14, 2005

Legislative Subcommittee Recommendation: Support

Summary: This bill would extend until January 1, 2010, the authority of the CPUC to recover costs associated with the Deaf and Disabled Telecommunications Program (DDTP).

Digest: Existing law, grants the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Existing law requires the commission to design and implement programs under which telephone corporations provide access to the telecommunications system for subscribers who are deaf, hearing impaired, or disabled, including programs to provide specialized or supplemental telephone communications equipment. The commission is required, until January 1, 2006, to establish a rate recovery mechanism through a surcharge, not to exceed 1/2 % on intrastate service, to allow providers of the equipment and services to recover their costs. Existing law authorizes the commission, until January 1, 2006, to adjust the surcharge upward or downward within the specified 1/2% cap, to ensure that the programs supported thereby are adequately funded and that the fund balances are not excessive.

This bill would extend, until January 1, 2010, the authority of the commission to establish a rate recovery mechanism through a surcharge and to adjust the surcharge upward or downward within the specified 1/2% cap, to ensure that the programs supported thereby are adequately funded and that the fund balances are not excessive.

Division Analysis (Telco):

This bill merely extends the CPUC's existing authority manage the DDTP until January 1, 2010. There is no impact on the current authority to manage the DDTP. This is merely an extension of the CPUC's existing role with regard to the DDTP.

LEGISLATIVE HISTORY

AB 3643 (1994) directed the CPUC to investigate competitively neutral mechanisms for the implementation of various universal service programs.

The Telecommunications Act of 1996 stated with respect to the state's authority to regulate universal service:

*"(b) State Regulatory Authority.--Nothing in this section shall affect the ability of a [*15] State to impose, on a competitively neutral basis and consistent with Section 254, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers." (Telco Act, Sec. 253(b).)*

Status:

Passed out of Senate Energy, Utilities and Communications on April 10-0 and is set for hearing in Senate Appropriations Committee on April 18, 2005.

SUPPORT/OPPOSITION

Support: California Council of the Blind, California Coalition of Agencies Serving the Deaf and Hard of Hearing

Opposition: None on file

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Date: April 14, 2005

BILL TEXT

AMENDED IN SENATE MARCH 14, 2005

INTRODUCED BY Senator Bowen

FEBRUARY 10, 2005

An act to amend Section ~~1442.5 of the Health and Safety Code, relating to county medical facilities.~~ 2881 of the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

SB 210, as amended, Bowen. ~~County medical facilities: services reduction: notice~~ Telecommunications: telephone corporations: surcharge .

The existing federal Telecommunications Act of 1996, establishes a program of cooperative federalism for the regulation of telecommunications to attain the goal of local competition, while implementing specific, predictable, and sufficient federal and state mechanisms to preserve and advance universal service, consistent with certain universal service principles. Existing federal law requires that a manufacturer of telecommunications equipment or customer premises equipment ensure that the equipment is designed, developed, and fabricated to be accessible to and usable by individuals with disabilities, as defined, if readily achievable. Existing federal law further requires that a provider of telecommunications services, as defined, ensure that the service is accessible to and usable by individuals with disabilities, if readily achievable.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Existing law requires the commission to design and implement programs under which telephone corporations provide access to the telecommunications system for subscribers who are deaf, hearing impaired, or disabled, including programs to provide specialized or supplemental telephone communications equipment. The commission is required, until January 1, 2006, to establish a rate recovery mechanism through a surcharge, not to exceed 1/2 % on intrastate service, to allow providers of the equipment and services to recover their costs. Existing law authorizes the commission, until January 1, 2006, to adjust the surcharge upward or downward within the specified 1/2% cap, to ensure that the programs supported thereby are adequately funded and that the fund balances are not excessive.

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~~Existing law authorizes the board of supervisors in each county to establish and maintain a county hospital and prescribe rules for the government and management thereof. Prior to closing, eliminating or~~

~~reducing the level of medical services provided by, or leasing, selling, or transferring management of, a county facility, existing law requires the board to provide public notice of public hearings to be held by the board prior to its decision to proceed. Existing law requires the notice to be posted not less than 14 days prior to the public hearings.~~

~~This bill would increase the amount of time prior to the public hearings that the notice must be posted from 14 days to 30 days.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~
yes . State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

~~SECTION 1. Section 1442.5 of the Health and Safety Code is amended to read:~~

SECTION 1. *Section 2881 of the Public Utilities Code is amended to read:*

2881. (a) The commission shall design and implement a program to provide a telecommunications device capable of serving the needs of individuals who are deaf or hearing impaired, together with a single party line, at no charge additional to the basic exchange rate, to any subscriber who is certified as an individual who is deaf or hearing impaired by a licensed physician and surgeon, audiologist, or a qualified state or federal agency, as determined by the commission, and to any subscriber that is an organization representing individuals who are deaf or hearing impaired, as determined and specified by the commission pursuant to subdivision (e). A licensed hearing aid dispenser may certify the need of an individual to participate in the program if that individual has been previously fitted with an amplified device by the dispenser and the dispenser has the individual's hearing records on file prior to certification.

(b) The commission shall also design and implement a program to provide a dual-party relay system, using third-party intervention to connect individuals who are deaf or hearing impaired and offices of organizations representing individuals who are deaf or hearing impaired, as determined and specified by the commission pursuant to subdivision (e), with persons of normal hearing by way of intercommunications devices for individuals who are deaf or hearing impaired and the telephone system, making available reasonable access of all phases of public telephone service to telephone subscribers who are deaf or hearing impaired. In order to make a dual-party relay system that will meet the requirements of individuals who are deaf or hearing impaired available at a reasonable cost, the commission shall initiate an investigation, conduct public hearings to determine the most cost-effective method of providing dual-party relay service to the deaf or hearing impaired when using a telecommunications device, and solicit the advice, counsel, and physical assistance of statewide nonprofit consumer organizations of the deaf, during the development and implementation of the system. The commission shall phase in this program, on a geographical basis, over a three-year period ending on January 1, 1987. The commission shall apply for certification of this program under rules adopted by the Federal

Communications Commission pursuant to Section 401 of the federal Americans with Disabilities Act of 1990 (Public Law 101-336).

(c) The commission shall also design and implement a program whereby specialized or supplemental telephone communications equipment may be provided to subscribers who are certified to be disabled at no charge additional to the basic exchange rate. The certification, including a statement of visual or medical need for specialized telecommunications equipment, shall be provided by a licensed optometrist or physician and surgeon, acting within the scope of practice of his or her license, or by a qualified state or federal agency as determined by the commission. The commission shall, in this connection, study the feasibility of, and implement, if determined to be feasible, personal income criteria, in addition to the certification of disability, for determining a subscriber's eligibility under this subdivision.

(d) The commission shall establish a rate recovery mechanism through a surcharge not to exceed one-half of 1 percent uniformly applied to a subscriber's intrastate telephone service, other than one-way radio paging service and universal telephone service, both within a service area and between service areas, to allow providers of the equipment and service specified in subdivisions (a), (b), and (c), to recover costs as they are incurred under this section. The surcharge shall be in effect until January 1, ~~2006~~

2010 . The commission shall require that the programs implemented under this section be identified on subscribers' bills, and shall establish a fund and require separate accounting for each of the programs implemented under this section.

(e) The commission shall determine and specify those statewide organizations representing the deaf or hearing impaired that shall receive a telecommunications device pursuant to subdivision (a) or a dual-party relay system pursuant to subdivision (b), or both, and in which offices the equipment shall be installed in the case of an organization having more than one office.

(f) The commission may direct any telephone corporation subject to its jurisdiction to comply with its determinations and specifications pursuant to this section.

(g) The commission shall annually review the surcharge level and the balances in the funds established pursuant to subdivision (d). Until January 1, ~~2006~~ 2010 , the commission shall be authorized to make, within the limits set by subdivision (d), any necessary adjustments to the surcharge to ensure that the programs supported thereby are adequately funded and that the fund balances are not excessive. A fund balance which is projected to exceed six months' worth of projected expenses at the end of the fiscal year is excessive.

(h) The commission shall prepare and submit to the Legislature, on or before December 31, 1988, and annually thereafter, a report on the fiscal status of the programs established and funded pursuant to this section and Sections 2881.1 and 2881.2. The report shall include a statement of the surcharge level established pursuant to subdivision (d) and revenues produced by the surcharge, an accounting of program expenses, and an evaluation of options for controlling those expenses and increasing program efficiency, including, but not limited to, all of the following proposals:

(1) The establishment of a means test for persons to qualify for program equipment or free or reduced charges for the use of

telecommunication services.

(2) If and to the extent not prohibited under Section 401 of the federal Americans with Disabilities Act of 1990 (Public Law 101-336), the imposition of limits or other restrictions on maximum usage levels for the relay service, which shall include the development of a program to provide basic communications requirements to all relay users at discounted rates, including discounted toll-call rates, and, for usage in excess of those basic requirements, at rates which recover the full costs of service.

(3) More efficient means for obtaining and distributing equipment to qualified subscribers.

(4) The establishment of quality standards for increasing the efficiency of the relay system.

(i) In order to continue to meet the access needs of individuals with functional limitations of hearing, vision, movement, manipulation, speech and interpretation of information, the commission shall perform ongoing assessment of, and if appropriate, expand the scope of the program to allow for additional access capability consistent with evolving telecommunications technology.

(j) The commission shall structure the programs required by this section so that any charge imposed to promote the goals of universal service reasonably equals the value of the benefits of universal service to contributing entities and their subscribers.

~~— 1442.5. (a) Prior to (1) closing, (2) eliminating or reducing the level of medical services provided by, or (3) the leasing, selling, or transfer of management of, a county facility, the board shall provide public notice, including notice posted at the entrance to all county health care facilities, of public hearings to be held by the board prior to its decision to proceed. The notice shall be posted not less than 30 days prior to the public hearings. The notice shall contain a list of the proposed reductions or changes, by facility and service. The notice shall include the amount and type of each proposed change, the expected savings, and the number of persons affected.~~

~~— (b) Notwithstanding the board's closing of, the elimination of or reduction in the level of services provided by, or the leasing, selling, or transfer of management of, a county facility subsequent to January 1, 1975, the county shall fulfill its duty to provide care to all indigent people, either directly through county facilities or indirectly through alternative means.~~

~~— (1) Where the county duty is fulfilled by a contractual arrangement with a private facility or individual, the facility or individual shall assume the county's full obligation to provide care to those who cannot afford it, and make their services available to Medi-Cal and Medicare recipients.~~

~~— (2) Where the county duty is fulfilled by alternative means, the facility or individual providing services shall be in compliance with Sections 441.18 and 1277.~~

~~— (3) The board shall designate an agency to provide a 24 hour information service that can give eligible people immediate information on the available services and access to them, and an agency to receive and respond to complaints from people eligible for services under this chapter. The designated agency may be the agency~~

~~that operates the facility. This subdivision applies only in instances in which there is (1) a closing of, (2) an elimination or reduction in the level of services provided by, or (3) the leasing, selling, or transfer of, a county facility.~~

~~—(4) The board shall arrange for all facilities or individuals contracting to provide services to indigent people to be listed in the local telephone directory under county listings, and shall specify therein that the facilities or individuals fulfill the obligations of county facilities.~~

~~—(5) Section 25371 of the Government Code does not relieve the county of the obligation to comply with this section.~~

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